

FRENCH LAND DECREE IN CAMBODIA.

THE different systems adopted in raising a revenue from land and providing for alienation, inheritance, &c. in certain Asiatic countries brought under European rule were briefly reviewed in this Journal in a paper which appeared in No. 13.* Descriptions of the native tenure and revenue system as they existed in Cambodia up to 1884 were there cited.† With the progress of events, it is now in our power to note the latest effort of European administrators in Asia to deal with the problem of harmonising native customs, as to this department of government, with civilised notions of freedom and justice.

The Convention concluded between France and Cambodia last year provides for much more direct interference by the French in the administration of the latter country than existed under the Protectorate during the previous twenty years. The alleged necessity for this is thus stated by a writer in *Excursions et Reconnaissances*, VIII, 206 (November and December, 1885):—

“It was necessary that France, the protecting power, should at last intervene. Without wishing to interfere unreasonably in the administration of the country, it was necessary that the revenue realised by the land-tax, ceasing to be devoted to the augmentation of the personal wealth of the King or privileged mandarins, should be the source of productive expenditure; it was necessary that the peasant should become owner of his land, and the slave master of his person; that justice should be regularly administered, and that, placed at first within the reach of all by the creation of minor courts, it should be secured by the existence of superior tribunals. It was necessary beyond everything that the execution of these reforms should not be evaded, as so many promises have been during the last twenty years, by the ill-will of mandarins

* *The Law and Customs of the Malays with reference to the Tenure of Land*, Journal, Straits Branch, Royal Asiatic Society, No. 13, p. 75.

† p.p. 100 and 130.

interested in maintaining the existing state of affairs."

"The perusal of the decrees which follow will shew better than any commentary how it has been decided to solve all these difficulties. The tax in kind has been abolished and the right of private property in land created. The eight provinces formed out of the fifty-seven old ones are placed severally under the superintendence of a French Resident; a civil list is assigned to the King, while the headmen of provinces and the judges receive salaries which justify the exaction from them of integrity and industry. Finally, at the Court of the King, France is represented by a Resident-General who, instead of being, as in the past, an almost powerless spectator of Cambodian decline, will have a firm hand over all branches of the administration."

The decrees here alluded to include one relating to the political and administrative organisation of Cambodia, one providing for the judicial organisation, one abolishing slavery, one creating private property in land, and one abolishing tax in kind levied on paddy. All of these are of interest to Englishmen, to whom no experiment in colonisation and in the government of subject races can be a matter of indifference. But only the two last, as bearing upon land-tenures and land-revenue, and therefore related to the subject of the paper already mentioned, are here translated. Whether the political condition of the country will admit of their peaceful introduction remains yet to be seen.*

W. E. MAXWELL.

* "The last mail from Indo-China brings also some particulars as to the situation in Cambodia. This country is far from being pacified; if it is true that our soldiers have been victorious in all engagements and that they have inflicted enormous losses on the insurgents, it is none the less true that the whole country is disorganised, that anarchy reigns there, and that security is wanting. What is most painful to us to notice is that these tidings only reach us through the post, that in the seven months during which the insurrection has now lasted the Governor of Cochin-China has given no details, except when they have been forced from him, and that it is only now that we are beginning to learn the names of the killed and wounded. Undoubtedly it was necessary not to give the movement more importance than it deserved, but it is, to say the least of it, strange that we should not have been informed, until a month after the event, that Pnom-Penh, the capital of Cambodia, had been attacked."—*Annales de l'Extrême Orient*, July, 1885, p. 27.

ORDER RELATIVE TO THE CREATION OF PROPRIETORSHIP IN LAND IN CAMBODIA.

Part I.—OF THE CREATION OF PROPERTY IN LAND.

Part II.—DIVISION OF THE STATE-DOMAIN.

Part III.—OF THE ADMINISTRATION OF THE STATE-DOMAIN.

Part IV.—OF OCCUPIERS.

Part V.—OF ALIENATION.

Part VI.—OF REGISTRATION OF PROPRIETORSHIP.

Part VII.—OF DISPOSSESSION.

GENERAL PROVISIONS.

PART I.

Of the Creation of Property in Land.

1. The territory of Cambodia, up to this day the exclusive property of the Crown, is declared to be the property of the State.

2. All persons holding lands by virtue of documents indicating a temporary hiring or alienation will be required to deposit the same, during the six months next following after the publication of this order, in the hands of the Resident of the Province, who will grant receipts for them.

After having been verified by the Resident-General, these documents will, if their validity is established, be countersigned and returned to the parties interested.

3. In default of compliance, within the period specified, with the requirements of the preceding section, land-holders will forfeit all rights.

PART II.

Division of the State-domain.

4. The State-domain includes,
lands assigned as an endowment to the Crown ;

lands employed for public purposes (*le domaine public*) ;

reserved lands (*le domaine de réserve*) ;

alienable lands (*le domaine aliénable*).

In the endowment of the Crown is included all the immoveable property placed at the disposal of His Majesty the King of Cambodia, with power to him to collect the revenues thereof and to dispose of them at his pleasure, subject to the reservations contained in this order.

In the public domain are included—roads, highways, railway lines and their appurtenances ; streams navigable for vessels or rafts, as well as their banks or shores to a breadth of eight *mètres* beyond the ordinary level of high water ; all the ways of communication in general ; buildings, lands and premises appropriated to a public purpose.

5. The Crown endowment and the public domain are inalienable ; the immoveable property composing them can neither be pledged or mortgaged.

6. The reserved tracts include such immoveable property as the government decides to withhold from immediate alienation and to reserve for the wants of the future, although they form a portion neither of the Crown endowment nor of the public domain.

Such immoveable property is inalienable as long as it continue to be classed under this category ; it may, however, be pledged or mortgaged.

7. The alienable tracts comprise all lands, the alienation of which is authorised as occasion arises. They may be classified, in each *commune*, in different classes, which will only be disposed of successively, so that lands of the second class will only be alienated after those of the first have been exhausted, those of the third class after the complete alienation of the second, and so on.

8. Land revenue of all kinds, and the rents derived from the immoveable property of the State-domain, with the exception of the Crown endowment, go to the credit of the State budget, which benefits similarly by the sums realised by the sale of alienable lands.

9. The classification of the lands of the State-domain into—

the Crown endowment,
the public domain,
the reserved portion, and
the alienable portion,

will be carried out, and may be modified from time to time by an order of the Resident-General, confirmed by the Governor of Cochin-China, after consultation with the Council of the Government of Cambodia.

The division, according to *communes*, and the classification of the alienable tracts will be effected by the provincial Residents, after consultation with the native authorities, and sanctioned by the Resident-General.

PART III.

Of the Administration of the State-domain.

10. The State-domain is administered, under the high authority of the King and of the Governor of Cochin-China, by the French Resident-General, represented in the provinces by the Residents.

The Resident-General executes, either in person or by those to whom he has delegated authority, all the instruments which affect the State-domain; purchases, sales, concessions, contracts, exchanges, leases and agreements, and represents it in Courts of law.

PART IV.

Of Occupiers.

11. Exceptional advantages will be offered to occupiers of the soil.

Those who have established themselves upon lands forming part of the alienable domain will be admitted, in preference to all other persons, either to become the owners of such lands on a gratuitous title, or else to acquire them by private contracts in consideration of a payment calculated on the

intrinsic value of the soil independent of any added value resulting from improvements made by such occupiers.

12. Those who have established themselves on lands appropriated to the public domain or the reserved tracts will have to quit them within a period to be fixed by the Resident of the province; but they will receive, free of cost, if they desire it, a concession of land sufficient to indemnify them for any losses resulting from compulsory removal.

When the lands in respect of which such evacuation is to be effected are occupied by standing crops, the period aforesaid can only commence from the day of their removal.

13. Every person who shall occupy in the future, without the license of a competent authority, a piece of land belonging to the State, shall be liable to a fine of four times the letable value of the land occupied.

PART V.

Of Alienation.

14. The land of the State may be alienated by means of free gift (*concession gratuite*), of sale by private contract, and of sale by public auction.

15. Free concession of fifty *hectares** and under, in the country, or of one thousand square *mètres* and under in centres of population, may be granted by the provincial Residents, after consultation with the native authorities; but they will not take effect until after approval by the Resident-General.

16. Concessions of greater extent may be made by the Resident-General. When they exceed three hundred *hectares*, in the case of country lands, or three thousand square *mètres* in the case of populous centres, they must, in addition, be ratified by the Governor of Cochin-China, after consultation with the Council of the Government of Cambodia.

17. Sales by private contract of land of a value of two hundred dollars and under may be concluded by the provincial Residents and confirmed by the Resident-General; above two hundred dollars, they may be concluded by the Resident-

* One *hectare*=two acres one rood thirty-five perches.

General; when they exceed two thousand dollars, they must, in addition, be submitted for the approval of the Governor of Cochin-China, the Council of the Government of Cambodia being consulted.

18. The putting up of land for sale by public auction must, in every case, be authorised, as a preliminary measure, by the Resident-General, who has subsequently to confirm the report of the sale. This report must, in addition, receive the approval of the Governor of Cochin-China, in consultation with the Council of Government of Cambodia, if the price realised at the auction exceeds two thousand dollars.

19. In case the confirmation of the Resident-General, or the approval of the Governor, is refused, the alienations mentioned in sections 16, 17 and 18 will be rendered void and will be of no effect.

20. The draft of the instrument of free concession or of private contract is shewn on the counterfoil of the register of alienations kept at the Residency of the Province in which the land is situated: a duplicate is made out on the detachable part of the same register and an extract thereof upon the butt attached to the latter. These three documents are signed by the provincial Resident and by the purchaser or *concessionnaire*, or by two witnesses if the latter be illiterate. The detachable copy and its butt are then torn off and despatched to the Resident-General, who will transmit them, if necessary, to the Governor.

After all the prescribed formalities have been performed, the butt is detached from the duplicate and kept at the Chief Residency (*la Résidence Générale*) while this latter is made over to the party interested to serve as his document of title.

21. The approval of the Governor of Cochin-China may be given in a general way, by a resolution mentioning the various instruments, to several alienations.

22. Sections 8, 9, 10, 11, 13, 14, 15 (the three first paragraphs only), 16, 17, 18 and 19 of the resolution of the 22nd August, 1882, relating to the alienations of public land in Cochin-China, shall be applicable to sales by auction of public lands in Cambodia. The Resident-General is to perform the functions which in Cochin-China devolve on the Director of the Interior.

23. The instrument of alienation may contain a stipulation exempting the land from taxation, either wholly or partially, for a period which shall in no case exceed four years.

The purchase money will be payable either in cash at the time of delivery of title, or by annual payments calculated in such a manner that the purchaser will find himself entirely free within a maximum period of ten years.

24. The cost of taking possession must be defrayed entirely by the purchasers and *cessionnaires*.

25. Instruments by which the alienation of State lands is effected are exempt from all fees for registration or otherwise, with the exception of a fixed charge of 20 cents for delivery of title, which will be levied at the time of registration in the register of alienations, on which a minute of sales by auction will be entered.

26. The alienation of State lands takes final effect—in the case of free concessions, by the discharge, for four consecutive years, of the land-tax; or, in the case of alienations burdened with a payment, by the entire payment of the purchase-money.

27. The Resident-General can always direct the revocation of alienations which have not taken final effect, either for non-compliance with the clauses of the contract, or for insufficient or bad cultivation.

The eviction of the purchaser or *cessionnaire* is pronounced, after a preliminary suit, by the authority who ordered the alienation, subject to the confirmation or approval of the superior authorities whose concurrence is necessary as laid down in sections 15, 16, 17, 18 and 19.

28. No demise of State lands for farming can take place if it has not been previously authorised by the Resident-General; such demise will then be concluded by the provincial Resident, entered on the register of leases specially kept for that purpose (which will be kept in the way indicated in section 20 as to the register of alienation), and confirmed by the Resident-General in the same way as sales by private contract where the purchase money is less than two hundred dollars, before the detached duplicate is issued to the lessee. This latter can in no case be exempted from payment of the land-tax.

29. Leases of land belonging to the State will be chargeable with a fee of twenty cents on delivery of title. This fee will be levied at the time of the entry on the register of leases.

30. Christian institutions, pagodas, mosques and other religious establishments, will be permitted to keep in full property the lands occupied by them on the 17th June, 1884, the day of the signature of the Pnom-Penh Convention, that is to say, temple-grounds, cemeteries, schools, and priests' houses, with their gardens and out-houses.

PART VI.

Of Registration of Lands.

31. During the six months next following after the publication of this order, there will be opened, for each *commune*, or, if necessary, for each section of a *commune*, quarter, or hamlet, a register of the lands comprised in it, the form of which will be decided upon hereafter.

These registers will be kept in French by the provincial Residents.

32. All mutations of immoveable property must, under pain of nullity, be certified to the headmen of cantons, who will receive the instrument by virtue of which the mutation is effected, will give a receipt for it, and will forward it without delay, through the successive grades of headmen (*par la voie hiérarchique*), to the provincial Resident for entry on the register of lands of his Residency.

The certificate of the parties interested is verified by a statement signed by the Resident and written upon the instrument of transfer.

No mutation of title can be effected by a verbal contract.

33. The registers of lands will be commenced afresh every five years.

PART VII.

Of Dispossession.

34. No one shall henceforth be obliged to surrender his

property except in the case of its being required for public purposes, and in consideration of fair compensation previously paid.

35. Lands in respect of which dispossession is effected on account of their being required for public purposes, will become part of the State-domain and be classified under the head of *le domaine public*.

36. Whenever there shall be occasion for dispossession, the nature of the public purposes for which the land is required shall be previously declared by an order of the Resident-General. This order will describe the lands to be appropriated, will declare their appropriation, will state, if necessary, any reasons for urgency in fixing the date from which possession will be taken, and will appoint the non-official members of the Committee mentioned in the following section.

37. Within (at the latest) the three months next following the order of the Resident-General, a Committee consisting of—

- 1, the Provincial Resident, or his deputy, President ;
- 2, the Headman of the *arrondissement* and the Headman of the *canton*, within which the land appropriated is situated ;
- 3, the two non-official members appointed by the order prescribed in s. 36 ;

shall proceed to the spot, inspect the land appropriated, listen to the claims of the owners and other persons interested (notice having been given to them at least eight days previously) and fix the amount of the compensation.

The Committee will draw up a Report of its proceedings and forward it without delay to the Resident-General, who will pay, within three months from the date of such report, the sums thereby awarded.

38. Except in cases of urgency, possession shall never be taken until the compensation has been paid.

The taking of possession must never be delayed longer than the month following such payment.

If urgency has been formally declared to exist, possession will be taken on the date fixed in the order of the Resident-General.

In either case, the fact of possession having been taken must be recorded in a report by the Provincial Resident.

39. Every act of dispossession which shall not be in conformity with the preceding regulations is hereby declared to be void and of no effect, provided that this shall in no way affect any liability, civil or criminal, which may have been incurred by those officers who may have ordered, prosecuted, carried out, or in any manner taken part in the same.

General Procedure.

40. Any matter not provided for in the present Regulation shall, on the motion of the Resident-General, be determined by the Governor of Cochin-China, the Council of the Government of Cambodia being consulted.

41. The Resident-General is charged with the carrying out of the present order, which shall be enrolled wherever needful, and inserted in the *Journal Officiel de la Cochinchine Française* and in the *Bulletin Officiel du Cambodge*.

Given at Pnom-Penh, the 28th October, 1884.

CHARLES THOMSON,

Governor of Cochin-China.

(Seal of the first Minister).

ORDER ABOLISHING THE TAX ON PADDY.

1. The tax upon paddy levied by the *Oknhaluong* is, and shall remain, abolished.

2. The foregoing decision shall apply to the harvest, now in progress, for 1884.

3. Paddy intended for the manufacture of spirits shall continue to be charged with a duty of ten per cent.

4. The representative, for the time being, of the Protectorate is charged with the enforcement of this decree.

Given at Pnom-Penh, the 18th November, 1884.

CHARLES THOMSON,
Governor.

(Seal of the first Minister).

By order of the Governor,

J. FOURÉS,
Representative (provisional) of the Protectorate.

